

**REPORT OF THE AUDIT OF THE
PENDLETON COUNTY
CLERK**

**For The Year Ended
December 31, 2010**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE PENDLETON COUNTY CLERK

**For The Year Ended
December 31, 2010**

The Auditor of Public Accounts has completed the Pendleton County Clerk's audit for the year ended December 31, 2010. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees decreased by \$10,235 from the prior year, resulting in excess fees of \$83,603 as of December 31, 2010. Revenues increased by \$221,485 from the prior year and expenditures increased by \$231,720.

Report Comment:

2010-01 The County Clerk Should Have A Written Agreement To Protect Deposits

Deposits:

The County Clerk's deposits as of April 2, 2010, were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$101,825

CONTENTS

PAGE

INDEPENDENT AUDITOR'S REPORT	1
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS	3
NOTES TO FINANCIAL STATEMENT	6
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS.....	11
COMMENT AND RECOMMENDATION	15



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Henry Bertram, Pendleton County Judge/Executive
The Honorable Rita Spencer, Pendleton County Clerk
Members of the Pendleton County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Pendleton County, Kentucky, for the year ended December 31, 2010. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2010, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated April 20, 2011, on our consideration of the Pendleton County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Henry Bertram, Pendleton County Judge/Executive
The Honorable Rita Spencer, Pendleton County Clerk
Members of the Pendleton County Fiscal Court

Based on the results of our audit, we have presented the accompanying comment and recommendation, included herein, which discusses the following report comment:

2010-01 The County Clerk Should Have A Written Agreement To Protect Deposits

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Pendleton County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

April 20, 2011

PENDLETON COUNTY
 RITA SPENCER, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2010

Revenues

State Grants	\$	61,845
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State Fees For Services		5,434
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Fiscal Court		10,328
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Licenses and Taxes:

Motor Vehicle-

Licenses and Transfers	\$	477,544
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Usage Tax		946,099
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Tangible Personal Property Tax		1,169,987
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Other-

Marriage Licenses		2,592
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Occupational Licenses		1,345
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Deed Transfer Tax		16,296
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Delinquent Tax	149,642	2,763,505
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Fees Collected for Services:

Recordings-

Deeds, Easements, and Contracts	7,355	
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Real Estate Mortgages	19,575	
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Chattel Mortgages and Financing Statements	26,444	
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Powers of Attorney	641	
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Affordable Housing Trust	13,602	
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All Other Recordings	12,383	
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Charges for Other Services-

Candidate Filing Fees	2,150	
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Copywork	8,811	90,961
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Other:

Refunds		2,489
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Interest Earned		147
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Total Revenues		2,934,709
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The accompanying notes are an integral part of this financial statement.

PENDLETON COUNTY
 RITA SPENCER, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2010
 (Continued)

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$	325,628	
Usage Tax		931,450	
Tangible Personal Property Tax		381,128	
Licenses, Taxes, and Fees-			
Kentucky Housing Trust		13,602	
Delinquent Tax		11,995	
Legal Process Tax		9,544	\$ 1,673,347

Payments to Fiscal Court:

Tangible Personal Property Tax	118,235	
Delinquent Tax	15,027	
Deed Transfer Tax	15,481	
Occupational Licenses	1,112	149,855

Payments to Other Districts:

Tangible Personal Property Tax	616,348	
Delinquent Tax	76,060	692,408

Payments to Sheriff 13,091

Payments to County Attorney 17,901

Operating Expenditures and Capital Outlay:

Personnel Services-

Deputies' Salaries 164,807

Materials and Supplies-

Office Supplies 11,580

Other Charges-

Conventions and Travel 4,974

Dues 660

Postage 2,200

Tax Bill Preparation 3,452

Shipping 82

Utilities 1,666

The accompanying notes are an integral part of this financial statement.

PENDLETON COUNTY
 RITA SPENCER, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2010
 (Continued)

Expenditures (Continued)

Operating Expenditures and Capital Outlay: (Continued)

Other Charges- (Continued)			
Refunds	\$	7,580	
Election		932	
Miscellaneous		1,108	
Capital Outlay-			
Office Equipment		10,636	
Maintenance Agreements		12,474	\$ 222,151
Total Expenditures			<u>\$ 2,768,753</u>
Net Revenues			165,956
Less: Statutory Maximum			<u>76,104</u>
Excess Fees			89,852
Less: Expense Allowance		3,600	
Training Incentive Benefit		2,649	6,249
Excess Fees Due County for 2010			83,603
Payments to Fiscal Court - March 7, 2011			<u>83,603</u>
Balance Due Fiscal Court			<u>\$ 0</u>

The accompanying notes are an integral part of this financial statement.

PENDLETON COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2010

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2010 services
- Reimbursements for 2010 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2010

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

PENDLETON COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2010
 (Continued)

Note 2. Employee Retirement System

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 16.16 percent for the first six months and 16.93 percent for the last six months.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Historical trend information showing the CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Pendleton County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1) (d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. These requirements were not met, as the Pendleton County Clerk did not have a written agreement with the bank.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Pendleton County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). On April 2, 2010, the County Clerk's bank balance was exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$101,825

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Henry Bertram, Pendleton County Judge/Executive
The Honorable Rita Spencer, Pendleton County Clerk
Members of the Pendleton County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Pendleton County Clerk for the year ended December 31, 2010, and have issued our report thereon dated April 20, 2011. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Pendleton County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Pendleton County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Pendleton County Clerk's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Pendleton County Clerk's financial statement for the year ended December 31, 2010, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under Government Auditing Standards and which is described in the accompanying comment and recommendation as item 2010-01.

The Pendleton County Clerk's response to the finding identified in our audit is included in the accompanying comment and recommendation. We did not audit the County Clerk's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Pendleton County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Crit Luallen', written in a cursive style.

Crit Luallen
Auditor of Public Accounts

April 20, 2011

COMMENT AND RECOMMENDATION

PENDLETON COUNTY
RITA SPENCER, COUNTY CLERK
COMMENT AND RECOMMENDATION

For The Year Ended December 31, 2010

STATE LAWS AND REGULATIONS:

2010-01 The County Clerk Should Have A Written Agreement To Protect Deposits

The County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). According to KRS 66.480(1)(d) and KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. As of April 2, 2010, the County Clerk had bank deposits of \$351,825; FDIC insurance of \$250,000; and collateral pledged or provided of \$260,750. Even though the County Clerk obtained sufficient collateral of \$510,750, there was no written agreement between the County Clerk and the depository institution, signed by both parties, securing the County Clerk's interest in the collateral. We recommend the County Clerk enter into a written agreement with the depository institution to secure the County Clerk's interest in the collateral pledged or provided by the depository institution. According to federal law, 12 U.S.C.A. § 1823(e), this agreement, in order to be recognized as valid by the FDIC, should be (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

County Clerk's Response: Will get the Bank to sign for collateral & security.

